



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/058,607 | 01/28/2002 | Brian Sullivan | 61750.03US1 | 3972 |

25541 7590 01/28/2003

ALTHEIMER & GRAY
TEN SOUTH WACKER DRIVE, SUITE 4000
CHICAGO, IL 60606-7482

EXAMINER

ZERR, JOHN W

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3644

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,607

Applicant(s)

SULLIVAN, BRIAN

Examiner

John W. Zerr

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 23-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 17-22 is/are rejected.
- 7) ☒ Claim(s) 5 and 10-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in Paper No. 7 is acknowledged. The traversal is on the ground(s) that the Examiner has not demonstrated that searching Groups I and II would constitute a serious burden. This is not found persuasive because restriction of Groups I and II were made on the grounds that Groups had attained separate status in the art, the Applicant has not adequately addressed the grounds of restriction made in the traversal.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the engaging surface being a notch, the retainer being a latch and the retainer being a pin must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because in Figure 1 reference number "106" should be replaced with reference number ---107--- and in Figure 9 reference number "176" should be replaced with reference number ---76---. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 3644

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "31" has been used to designate both a firing bolt and the leading end of the hammer. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "127" has been used to designate both gaskets and a grip receptacle. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. Figure 13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "58" on page 2 line 14, "61" on page 3 line 22, "23" on page 16 line 5 and "54" on page 16 line 10. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "57", "18" and "19" in Figure 2. A proposed drawing correction, corrected drawings, or amendment to the specification

Art Unit: 3644

to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

9. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

10. The abstract of the disclosure is objected to because the Abstract is greater than 150 words. Correction is required. See MPEP § 608.01(b).

11. The disclosure is objected to because of the following informalities: on page 10 line 17 "ring" should be replaced with ---bolt--- twice, on page 16 line 21 "value" should be replaced with ---valve---, on page 17 line 20 reference number "75" should be replaced with reference number ---176---, and on page 18 line 9 "compressed air chamber" should be replaced with ---integral valve---.

Appropriate correction is required.

Claim Objections

12. Claim 1 is objected to because of the following informalities: in line 3 "hingingly" should be replaced with ---hingedly---. Appropriate correction is required.

Claim Rejections - 35 USC § 112

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3644

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. Claims 17-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 contains two sentences, one sentence seemingly being a statement dependent on Claim 15 and another seemingly a new independent statement. Claims should be limited to one sentence. It is unclear what exactly the claimed subject matter of Claim 17 is intended to be. Examiner cannot properly gauge the subject matter of Claim 17, therefore the claim is rejected and examination of Claim 17 based on the prior art is precluded. Claims 18-21 are dependent claims that are dependent upon themselves. It is unclear, then, what the exact subject matter of these claims is intended to be since claims cannot be self-incorporating. Examiner cannot properly gauge the subject matter of Claims 18-21, therefore the claims are rejected and examination of Claims 18-21 based on the prior art is precluded. Claim 22 is dependent on rejected Claim 19, therefore Claim 22 is also rejected and examination of Claim 22 based on the prior art is precluded.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Benkoe (USPT 3,022,779). Benkoe discloses toy guns capable of firing a paintball projectile comprising

Art Unit: 3644

a grip (10) and a receiver (12) hingedly attached to the grip (10) so that the grip (10) and the receiver (12) can move from an adjacent position to an open position. A projection (60) is placed on the receiver (12). A retainer (46) is fixedly attached to the grip (10). The projection (60) and the retainer (46) cooperate to selectively engage each other, to maintain the grip (10) and the receiver (12) in a fixed relationship. The projection (60) is capable of receiving the retainer (46) and the retainer (46) is capable of moving from a first position to a second position, engaging the projection (60) in one position and disengaging it in another. The projection (60) has an engaging surface adapted to mate with the retainer (46). The retainer (46) slides from the first position to the second position. The engaging surface of the projection (60) is a notch. The retainer (46) is a latch (see Figures 1, 2, 3 & 4 and column 2 lines 1-39).

17. Claims 1-4, 6 and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Sheridan XTS Owner's Manual (ref. 6 on PTO-1449 filed by the Applicant). The Sheridan XTS depicted is a paintball gun comprising a grip (12,13) and a receiver (1) hingedly attached to the grip (12,13) so that the grip (12,13) and receiver (1) may move from an adjacent position to an open position. A projection (40) is placed on the grip (12,13). A retainer (25) is fixedly attached to the receiver (1). The projection (40) and the retainer (25) cooperate to selectively engage each other thereby retaining the grip (12,13) and the receiver (1) in a fixed relationship. The projection (40) is capable of receiving the retainer (25) and the retainer (25) is capable of moving from a position where it engages the projection (40) to a position where it disengages the projection (40). The projection (40) has an engaging surface capable of mating with the retainer (25). The engaging surface is a channel extending transversely along the projection (40). The

Art Unit: 3644

retainer (25) slides between the engaging and disengaging positions. The retainer (25) acts to pin the projection (40) in place (see Figures 1-5 and Step 8).

Allowable Subject Matter

18. Claims 5 and 10-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

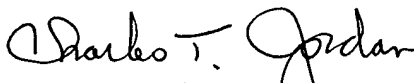
19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller (USPT 3,318,192) discloses a locked action rifle for automatic and semi-automatic firing wherein the receiver is pivotally attached to the grip. Momirov (USPT 5,617,837) discloses an air gun with pressure relief valve wherein a grip is pivotally attached to the rest of the gun. Reese (USPT 4,999,939) discloses a breech load pistol and conversion wherein a receiver is pivotally attached to a grip. Rosebush (USPT 1,316,510) discloses a barrel fastening for firearms wherein a receiver is pivotally attached to a grip. Walther (USPT 3,233,601) discloses a compressed air weapon wherein a receiver is pivotally attached to a grip. An index from archive.org indicates that the article at www.diablodirect.com/xts.html supplied by the Applicant describing the paintball gun whose Owner's Manual is used in the rejection above dates back to October 2000. An index from archive.org indicates that the article at www.warpig.com/paintball/articles/pressrelease/jtx.shtml supplied by the Applicant describing the paintball gun whose Owner's Manual is used in the rejection above dates back to January 2000.

Art Unit: 3644

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John W. Zerr whose telephone number is (703) 306-0153. The examiner can normally be reached on M-Th. 8:00am-5:30pm, F 8:00am-4:30pm, alt. F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

JWZ
January 23, 2003